

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

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ZERRAD AOUATIF,

Plaintiff,

- against -

ORDER  
07-CV-1302 (RRM) (JO)

THE CITY OF NEW YORK, NEW YORK CITY  
HEALTH AND HOSPITAL CORPORATIONS,  
NABIL KOTBI, and DOES 1-10,

Defendants.

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MAUSKOPF, United States District Judge.

Currently before the Court is Defendants' motion for summary judgment pursuant to Federal Rule of Civil Procedure 56. Having reviewed all of the submissions pertaining to the motion, the Court finds that the parties have failed to address numerous significant questions. Accordingly, supplemental briefing is required. In particular, the parties must address the following issues:

- (1) Whether the claims against all unidentified defendants must be dismissed due to Plaintiff's failure to identify and serve said defendants within the period prescribed by Federal Rule of Civil Procedure 4(m) and, more importantly, the applicable statute of limitations period;
- (2) Whether Plaintiff's claim against the New York City Health and Hospitals Corporation is separate and distinct from Plaintiff's *Monell* claim against the City of New York, or whether those two claims are coextensive;
- (3) Whether Plaintiff has adduced sufficient facts with respect to her *Monell* claim to survive summary judgment;<sup>1</sup> and

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<sup>1</sup> In particular, the parties must address whether Plaintiff has adduced evidence of an official policy or custom sufficient to establish *Monell* liability. See *Monell v. Dep't of Soc. Servs.*, 436 U.S. 658, 693 (1978).

- (4) Whether Defendant Nabil Kotbi was acting “under color of state law” for purposes of liability under 42 U.S.C. § 1983 during the events underlying this action.

The parties shall provide the Court with supplemental briefing on each of the preceding four issues in accordance with the following schedule:

- (1) Defendants shall serve their supplemental briefs (together with, if necessary, a supplemental statement of material facts pursuant to Local Rule 56.1) on Plaintiff by no later than September 11, 2009;
- (2) Plaintiff shall serve her response to Defendants’ supplemental brief (together with her response to Defendants’ supplemental Local Rule 56.1 statement of material facts, if applicable) on Defendants by no later than October 2, 2009; and
- (3) Defendants shall serve their reply papers on Plaintiff and file them with the Court, as part of a fully briefed submission, by no later than October 16, 2009.

SO ORDERED.

**/s/ RRM**

Dated: Brooklyn, New York  
August 18, 2009

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ROSLYNN R. MAUSKOPF  
United States District Judge